US Army Corps of Engineers®

SAN FRANCISCO DISTRICT

PUBLIC NOTICE

NUMBER: 27563S DATE: 24 January 2003

RESPONSE REQUIRED BY: 24 February 2003

Regulatory Branch
333 Market Street
San Francisco, CA 94105-2197

PROJECT MANAGER: Bob Smith Phone: (415) 977-8450/E-mail: rsmith@spd.usace.army.mil

1. **INTRODUCTION:** The Monterey County Water Resources Agency (MCWRA), 893 Blanco Circle, Salinas, California 93901, [contact: Jim Slater, (831) 424-7935] has applied for a Department of the Army authorization to discharge fill to: remove vegetation with mechanized equipment; remove sandbars and; remove debris jams and vegetative flow obstructions from the channel of the **Pajaro River between the State Highway 1 Bridge and the Pacific Ocean**. This application is being processed pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. 1344) and Section 10 of the Rivers and harbors Act of 1899 (33 U.S.C. 403).

2. **PROJECT DESCRIPTION:** The Pajaro River is a perennial stream that bisects the Pajaro Valley, draining a watershed approximately 1300 square miles in area. The river serves as the boundary between Monterey County and Santa Cruz County. Santa Cruz County and the City of Watsonville (population 47,000) border the River to the north, and Monterey County and the community of Pajaro border the river to the south.

Flood control has been an issue in the Pajaro Valley since 1936 when the Corps conducted the preliminary flood control study. In 1949 earthen levees were constructed by the Corps to protect the agricultural lands and urban areas bordering the Pajaro River. In 1995 a major flood breached the levees along the Pajaro, resulting in significant damage to the agricultural lands and urban areas bordering the river. Following this event, over 95% of the riparian vegetation was removed from both banks of the river under an emergency order from the Governor of California. In 1998 high winter flows breached the levees again on the Santa Cruz County side. These flood events triggered a number of legal and planning actions, and lawsuits against Monterey County, Santa Cruz County, and the California Department of Transportation. A three judge panel of the sixth Appellate District issued a ruling in 2002 that found the Counties' failure to maintain the Pajaro River channel caused the flooding. As a result Monterey County may be held liable for over $25 million in damages. The applicant states the ruling provides a clear mandate to Monterey County to conduct more aggressive channel maintenance work on the Pajaro to maintain channel capacity and minimize the risk of future flooding.

To reduce the risk of flooding in the Pajaro Valley, the County of Monterey has prepared an interim channel maintenance plan for the Pajaro River. The primary objective of the plan is to implement a management program along the Pajaro River that (1) maintains the flood carrying capacity of the system and (2) preserves habitat values. This Interim Plan is intended to reduce the short-term risk of flooding while the Corps of Engineers evaluates alternatives to provide additional long-term flood protection. To implement the Plan the County has requested authorization for the following work in Corps jurisdiction [See attached sheets for examples of typical work proposed]:

1. Vegetation Management

A component of the plan is to manage the vegetation in the river channel, excluding the low flow channel. In order to maintain the hydraulic capacity of the river channel for flood protection, vegetation management and maintenance would be

conducted under this permit from the Murphy Road crossing downstream to the Highway 1 Bridge. [The reaches from the Highway 1 Bridge to the Murphy Road crossing are being consider under application 24039S] Vegetation management activities would be conducted to create a short, dense vegetative carpet for erosion protection and to provide wildlife habitat.

The following techniques would be used to manage vegetation:

- Removal of vegetation through the use of mechanical equipment and hand-operated simple and mechanical tools.

- Woody vegetation would be cut, mowed, and/or knocked down with mechanical equipment.

- Woody root balls may be scarified with a ripper to a depth of two feet at selected locations.

- Annual vegetation maintenance and removal through the use of flail mowers and other mechanical equipment.

- Mechanical equipment may include hand-operated simple and mechanical tools; mechanized flail mowers/shredders mounted on tracked/wheeled tractors or excavators; tracked/wheeled tractors with blades, discing, and ripper attachments; hydraulic excavators with excavator buckets; and other mechanized equipment as may be appropriate for specific tasks.

The applicant states the following restrictions would apply to the vegetation management activities:

- All work, including any tree removal, would be done in the dry areas of the channel and not encroach upon standing or flowing waters.

- All vegetation greater than three inches as measured at levee height would be retained to provide shade cover for fish habitat. Understory thinning would be designed to promote recruitment to the upper canopy.

- Vegetation cuttings would be removed from the channel bottom for upland disposal or chipped on banks or benches, unless equipment used chips vegetation as it cuts.

- If disturbed by vegetation removal, sandbar contours would be reestablished at natural grades. No sediment would be extracted during vegetation maintenance activities.

- Equipment would be utilized in dry areas and restricted from encroaching upon flowing water, except as necessary for crossing events.

- Equipment crossing flowing water would be restricted to narrow, shallow riffle sites and would be limited to onetime ingress and egress events, for one time access to dry sandbars.

- Herbicide may be used on cut willow trunks.

2. **Sandbar Removal**

Each spring the Pajaro River would be evaluated by MCWRA maintenance crews to locate sandbars that could potentially contribute to some reduction in flood capacity. Any areas determined to have such a degree of accumulated sediment may be scheduled for mechanized silt removal in the late summer when stream flows are lowest. One of the

following mechanized means would be used to remove sediment: (1) in-channel smoothing of the sandbar to a height of two feet (above water level), (2) utilizing an excavator and dump truck stationed outside of the channel, (3) ripping the sandbar and leaving the disturbed sediment in the channel to be washed out during high stream flow events, or (4) skip loader and dump truck in the channel (where practical) to transport the sediment out of the channel.

The applicant states the following restrictions would apply to sandbar removal:

- Sandbar removal in the Pajaro River channel would be limited to the portion of the sandbar greater than two feet in height (above water level).

- A meandering low flow channel shall be maintained during sandbar removal or reconstructed following in-channel work. To prevent destabilization of the low flow channel, activities within the low flow channel shall be avoided during sandbar removal if possible. If impacts to the low flow channel are unavoidable, a low flow channel shall be immediately reconstructed when sandbar removal is complete.

- Sandbar removal shall be conducted at the end of the summer (June 1 to October 15). No sandbar removal shall be conducted before July 1 to avoid potential impacts to out migrating steelhead smolts.

3. **Debris Jam and Flow Obstruction Removal**

MCWRA maintenance crews would evaluate the Pajaro River each spring to locate debris jams and other vegetative flow obstructions. Obstructions would be scheduled for removal in late summer when stream flows are lowest. One of the following mechanized means would be used to remove obstructions: (1) use of an excavator and dump truck stationed outside of the channel, or (2) tracked/wheeled tractor and dump truck in the channel (where practical) to remove the debris and either mulch it in place or remove it from the channel.

The applicant states the following restrictions would apply to the removal of debris jams and other flow obstructions:

- A meandering low flow channel shall be maintained during obstruction removal or reconstructed following in-channel work. To prevent destabilization of the low flow channel, activities within the low flow channel shall be avoided during obstruction removal if possible. If impacts to the low flow channel are unavoidable, a low flow channel shall be immediately reconstructed when obstruction removal is complete.

- Measures shall be implemented to minimize turbidity during any in-water maintenance activity. To minimize water turbidity during obstruction removal activities, temporary use of cofferdams or other measures to minimize turbidity shall be implemented.

- Obstruction removal shall be conducted at the end of the summer (June 1 to October 15). No obstruction removal shall be conducted before July 1 to avoid potential impacts to out migrating steelhead smolts.

3. **STATE APPROVALS:** Under Section 401 of the Clean Water Act (33 U.S.C. Section 1341), an applicant for a Corps permit must obtain a State water quality certification or waiver before a Corps permit

may be issued. The applicant has provided the Corps with evidence that he has submitted a valid request for State water quality certification to the Central Coast Regional Water Quality Board. No Corps permit will be granted until the applicant obtains the required certification. A waiver will be deemed to have occurred if the State fails or refuses to act on a valid request for certification within 60 days after the receipt of a valid request, unless the District Engineer determines a shorter or longer period is reasonable for the State to act.

4. **ENVIRONMENTAL ASSESSMENT:** The Corps of Engineers will assess the environmental impacts of the action proposed in accordance with the requirements of the National Environmental Policy Act of 1969 (Public Law 91-190), and pursuant to Council on Environmental Quality's Regulations, 40 CFR 1500-1508, and Corps of Engineers' Regulations, 33 CFR 230 and 325, Appendix B. Unless otherwise stated, the Environmental Assessment will describe only the impacts (direct, indirect, and cumulative) resulting from activities within the jurisdiction of the Corps of Engineers. The documents used in the preparation of the Environmental Assessment will be on file in the Regulatory Branch, Corps of Engineers, 333 Market Street, San Francisco, California.

A Corps of Engineers archaeologist is currently conducting a cultural resources assessment of the permit area, involving review of published and unpublished data on file with city, State, and Federal agencies. If, based upon assessment results, a field investigation of the permit area is warranted, and cultural properties listed or eligible for listing on the National Register of Historic Places are identified during the inspection, the Corps of Engineers will coordinate with the State Historic Preservation Officer to take into account any project effects on such properties.

Endangered Species - Steelhead trout, *Onchorynchus mykiss*, occur in the river and are listed as threatened under the Endangered Species act. The endangered tidewater goby, *Eucycloglobius newberryi*, may be present in the Pajaro River lagoon, and the California red-legged frog, *Rana aurora draytoni*, exists in the project area. The Corps will initiate consultation with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service as required by Section 7 of the Endangered Species Act.

5. **EVALUATION OF ALTERNATIVES**:
Evaluation of this activity's impact on the public interest will also include application of the guidelines promulgated by the Administrator of the Environmental Protection Agency under Section 404(b)(1) of the Clean Water Act, 33 U.S.C. Section 1344(b).

6. **PUBLIC INTEREST EVALUATION:** The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity and its intended use on the public interest. Evaluation of the probable impacts that the proposed activity may have on the public interest requires a careful weighing of all those factors that become relevant in each particular case. The benefits that reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. The decision whether to authorize a proposal, and if so the conditions under which it will be allowed to occur, are therefore determined by the outcome of the general balancing process. That decision will reflect the national concern for both protection and utilization of important resources. All factors that may be relevant to the proposal must be considered including the cumulative effects thereof. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs,

considerations of property ownership, and, in general, the needs and welfare of the people.

7. **CONSIDERATION OF COMMENTS:** The Corps of Engineers is soliciting comments from the public, Federal, State and local agencies and officials, Indian Tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

8. **SUBMISSION OF COMMENTS:** Interested parties may submit in writing any comments concerning this activity. Comments should include the applicant's name, the number, and the date of this notice and should be forwarded so as to reach this office within the comment period specified on page one of this notice. Comments should be sent to the Regulatory Branch. It is Corps policy to forward any such comments that include objections to the applicant for resolution or rebuttal. Any person may also request, in writing, within the comment period of this notice that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Additional details may be obtained by contacting the applicant whose address is indicated in the first paragraph of this notice, or by contacting Bob Smith of our office at telephone 415-977-8450or E-mail: bsmith@spd.usace.army.mil. Details on any changes of a minor nature that are made in the final permit action will be provided on request.